

TOWN OF CHATHAM  
JANUARY 26, 2012

ZONING BOARD OF APPEALS  
FINAL COPY

\*\*\*\*\*

Members Present:

Kary Jablonka  
Adrian Ooms  
David Everett, Chairman  
Robert Leary  
JP Henkel  
Walt Simonsmeier, ZEO

Members Absent:

Jeff Lick  
Mitchell Khosrova

Public Present:

Scott Longstreet  
Pat Alderdice  
Stash and Antoinette Wojeski

The January 26, 2012, Zoning Board of Appeals meeting was called to order by David Everett at 7:00PM. The Pledge of Allegiance was recited. Because there was not a quorum of members present from the December meeting, the minutes from that meeting will need to be approved at the next meeting.

ESTATE OF TOM MEYN—REQUEST FOR AN AREA VARIANCE ON  
PROPERTY ON ALBANY TPK. TO ALLOW FOR A SUBDIVISION OF  
PROPERTY PUBLIC HEARING

Atty. Scott Longstreet submitted updated maps which show the topographic lines, the well and septic and the driveway cuts. The ultimate goal is to subdivide this property, which sits in a Business zone, into two parcels. The business would be on a two-acre piece, while the house will be on 1.19 acres, which would require a .81 acre variance.

The Public Hearing was opened at 7:05PM. There were no comments. The Public Hearing was closed at 7:06PM. Chairman Everett reported that the Planning Board sent a letter stating that they were in favor of approval of this project.

The Short Form SEQRA application, which shows no significant adverse effects to the following: air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems was reviewed. Also, there are no aesthetic, agricultural, archaeological, historic, or other natural or cultural resources or community or neighborhood character concerns. There are no significant effects to vegetation or fauna, fish, shellfish or wildlife species, significant habitats or threatened or long or short-term effects identified. Since this is the case, Kary Jablonka moved that there is no significant adverse environmental impact with this project, and should be accepted. JP Henkel seconded the motion and it carried unanimously. The criteria for granting a variance were reviewed, and there

were no difficulties with this. Kary Jablonka moved, and Dave Everett seconded that the .81 acre variance be approved. This carried unanimously.

**STASH AND ANTOINETTE WOJESKI—REQUEST FOR AN AREA VARIANCE  
TO PERMIT A 3 STALL HORSE SHED LOCATED ON SUTHERLAND RD.  
THAT DOES NOT MEET SETBACKS            INFORMATIONAL**

Pat Alderdice is representing the Wojeskis, although they also were present at the meeting. ZEO Walt Simonsmeier explained that the structure had been built without a permit, but that it is too close to the centerline of Sutherland Rd., which, as a Town Road requires 75' setback from the middle of that road. The shed in question is an 8' running shed with a tack room. Dimensions are 42'x24'. Someone contacted Mr. Simonsmeier about this shed. This, and the house, is the only structures on the property, according to Mr. Alderdice. The shed was built over a period of 3 years. It had started out as a single unit and was expanded to what it currently is. The electrical inspection has been done, but he stated that they were unaware that a permit was needed for this, as it is for agricultural use. Mr. Simonsmeier added that the Code tends to be unclear in many areas. In some cases, our codes are more lenient than NYS Codes, but we are bound by the state codes. The applicant also provided pictures showing that all the houses in that area are closer to Sutherland Rd. than this barn is. Chairman Everett requested the clerk to ask for input from the Planning Board on this project. A Public Hearing was set for the February meeting.

The meeting was adjourned at 7:23PM.

---

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, Secy.



**TOWN OF CHATHAM  
FEBRUARY 23, 2012**

**ZONING BOARD OF APPEALS  
FINAL COPY**

\*\*\*\*\*

**Members Present:**

**Kary Jablonka**

**Adrian Ooms**

**Robert Leary**

**Jeff Lick**

**Mitchell Khosrova, Dep. Chairman**

**Tal Rappleyea, Atty.**

**Walt Simonsmeier, ZEO**

**Members Absent:**

**David Everett**

**JP Henkel**

**Public Present:**

**Pat Alderdice**

**Stash Wojeski**

**Antoinette Wojeski**

The February 23, 2012, Zoning Board of Appeals meeting was called to order by Deputy Chairman Mitchell Khosrova. The Pledge of Allegiance was recited. The December meeting minutes were approved. Because there was not a quorum of members present from the January meeting, the minutes from that meeting will need to be approved at the next meeting.

**STASH AND ANTOINETTE WOJESKI- REQUEST FOR AN AREA VARIANCE TO PERMIT A 3-STALL HORSE SHED LOCATED ON SUTHERLAND RD. THAT DOES NOT MEET SETBACKS**

**PUBLIC HEARING**

Mr. Wojeski turned in the certified postal receipts. The Public Hearing was opened at 7:04PM. Mr. Wojeski summarized the request. This horse shed is located inside the approved horse fence and is located 42' from the center of the road. The question was posed as to whether the applicant would have applied for a variance had he known he needed one, or whether he would have sited the shed in a different location. He responded that the placement looked "right" where it was placed, but probably he would have put it elsewhere had he known the requirement. The ZBA confirmed that the size of the shed is 42'x24' and that it is 8' high. There were no comments from the public. The Public Hearing was closed at 7:09. The Board had received letters from the neighbors stating that they were OK with the shed where it is. Kary Jablonka noted that it does fit in with the environment. The Planning Board saw no problem with granting this, however expressed concern regarding people undertaking projects without a permit. The Board reviewed the criteria for approving a variance: This will not cause an undesirable change in the neighborhood; another placement could have been used; it is not a substantial request, there will not be an adverse environmental effect, and it was self-created. The Board was reminded of the need to consider precedent. Adrian Ooms stated that this is really a small building. The builder thought that it fell under the protocols for an agricultural building rather than residential, and it doesn't have a foundation. Atty. Rappleyea stated that in weighing the balance of this, the Board also needs to consider the benefit to the applicant against the detriment to the community. Kary Jablonka moved that a 33' variance be granted to the applicant for this horse shed. Bob Leary seconded the motion and it passed

**unanimously. The applicant now can apply for the proper permits. The approval fee was collected.**

**Kary Jablonka moved and Jeff Lick seconded that the meeting be adjourned. The meeting ended at 7:17.**

---

**Mitchell Khosrova, Deputy Chairman**

**Respectfully submitted,**

**Marilyn Cohen, clerk**



**TOWN OF CHATHAM  
MARCH 22, 2012**

**ZONING BOARD OF APPEALS  
FINAL COPY**

\*\*\*\*\*

**Members Present:**

Kary Jablonka  
Adrian Ooms  
Robert Leary  
Jeff Lick  
Mitchell Khosrova  
David Everett, Chairman  
JP Henkel  
Walt Simonsmeier, ZEO

**Members Absent:**

None

**Public Present:**

Eric Wilska

The March 22, 2012 Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00PM. The Pledge of Allegiance was recited. Kary Jablonka moved and Adrian Ooms seconded that the January meeting minutes be approved. This carried, with Jeff Lick abstaining. Mitchell Khosrova moved and Kary Jablonka seconded that the February meeting minutes be approved. This carried with JP Henkel abstaining.

**ERIC WILSKA- REQUEST FOR AN INTERPRETATION AS TO THE RESPONSIBILITY OF THE TOWN TO BECOME INVOLVED IN A COMPLAINT REGARDING CONTAMINATED WATER DUE TO A LARGE AMOUNT OF ANIMALS HOUSED IN A SMALL AREA—INFORMATIONAL**

Eric Wilska explained to the ZBA that he is a property owner in Old Chatham. For 35 years horses have been housed on the property across the road from him and no manure has ever been removed from that property. DEC was asked to check the run off because there is improper drainage and Mr. Wilska's wells (2) both have a high coliform level. This water has been tested 2-3 times with similar results. The pond on his property has a high e-coli count. This pond was cleaned last fall, but by summer the high coliform levels were present again. Mr. Wilska contacted the County Health Department who referred it to DEC and the Town of Chatham. DEC agrees that there is pollution, but that it is not their issue. Agencies keep telling the applicant that it is not their responsibility. Mr. Wilska says that the property in question is 3 acres, and it needs to be mended, but this isn't happening. The horses go over the fences, which is both a nuisance and a health issue. The homeowner is aware of the situation but is doing nothing about it. ZEO Walt Simonsmeier received the information from Mr. Wilska and, with the advice of the Town Attorney, and after contacting the Health Dept. who stated that there are three reasons this would happen (poor well cap, cracked casing or something getting into the water) declared this a civil issue, hence the appeal. It could be the horses, but this can't be proved. Perhaps something further upstream is causing the pollution.

Chairman Everett stated that we need to determine which part of the code may be in violation. Chapter 180-33 deals with offensive usage, which may apply here. Adrian Ooms questioned whether the well casings had been checked. They have been, and no problems were found. The wells are deep. Mr. Wilska added that a representative from the DEC had been at the property that day and stated that a desist order may be appropriate, however the DEC does not have the power to enforce this.

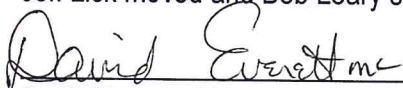
What apparently needs to be done to remedy this situation is to remove the horses at least temporarily, bulldoze out a foot down, remove this, haul it out and reseed in order to reclaim the land. Mr. Wilska also spoke to the stench and to the condition of the small fenced-in area close to the road.

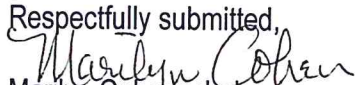
Both Kary Jablonka and Mitchell Khosrova spoke to the idea that if tests were conducted both upstream from where the horses are and then below those results might be able to determine if the horses are the culprits. If these tests come out to show this, the ZBA could then overturn Mr. Simonsmeier's decision and a violation would be issued. There was some discussion as to being able to get a sample without the permission of the landowner. Mitchell Khosrova stated that the DEC could do this. Mr. Simonsmeier stated that he has been on this property and could do it with our Town Engineer. After some discussion, it was determined that we would get a cost estimate from our Town Engineer on running these tests. The applicant would be responsible for paying this. The Board feels that these tests will be necessary for it to make a determination.

There was some discussion as to whether 180-38A might be another violation. Currently a part of the neighbor's property is being used as a paddock or small fenced in area and is less than the 100' from the applicant's property. At one time this area was used as a pasture, but is not being used that way now. This issue will be considered further.

The clerk was requested to contact the landowner and inform him that there will be additional information gathering next month on this issue and we would like him, or a representative, to attend this meeting. The Zoning Board members were given permission to be on the Wilska property.

Jeff Lick moved and Bob Leary seconded that the meeting be adjourned at 8:15PM. This carried.

  
David Everett, Chairman

Respectfully submitted,  
  
Marilyn Cohen, clerk



**TOWN OF CHATHAM  
APRIL 26, 2012**

**ZONING BOARD OF APPEALS  
FINAL COPY**

\*\*\*\*\*

**Members Present:**

Adrian Ooms  
Robert Leary  
Jeff Lick  
Mitchell Khosrova  
David Everett, Chairman  
JP Henkel  
Walt Simonsmeier, ZEO

**Members Absent:**

Kary Jablonka

**Public Present:**

Christopher J. Perez  
Eric Wilska

The April 26, 2012 Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:01PM. The Pledge of Allegiance was recited. Mitchell Khosrova moved and JP Henkel seconded that the meeting minutes from the previous meeting be adopted. This carried. The clerk announced an in-service offering on Hydrofracking that will be held on May 5 in Millbrook. Information was made available.

**ERIC WILSKA- REQUEST FOR AN INTERPRETATION AS TO THE  
RESPONSIBILITY OF THE TOWN TO BECOME INVOLVED IN A  
COMPLAINT REGARDING CONTAMINATED WATER DUE TO A LARGE  
NUMBER OF HORSES HOUSED IN A SMALL AREA---INFORMATIONAL**

The owner of the property had been requested to be present at this meeting, and Dr. Christopher Perez was in attendance. He submitted a letter from the Columbia County Soil and Water Conservation District who had come to the property, evaluated it and made several recommendations, which the landowner has already begun.

Chairman Everett asked Mr. Wilska if he had received a cost estimate to do the tests discussed in March from the Town Engineer. He said he had, but that the \$4000 that was being requested to be placed in escrow was not something that could be done at this time. Mr. Wilska asked whether there was only one engineer used by the Town. There are other firms available to us, but we have had a long history with this particular firm. It is the decision of the applicant as to whether he wishes to use this service or not.

Jeff Lick added that he spoke to someone from DEC and learned that coliform bacteria can be tested to determine which species fouls the water source. Adrian Ooms still feels that the well casing is the problem.

Mr. Wilska reviewed the problem---a 35 year accumulation of manure. He is aware that some of the piles were removed and trucked away about 2 weeks ago. He said that no digging was done to remove the impacted manure. He stated that he does disagree with the Columbia County Soil



and Water Conservation District's comment that the land is level. He spoke to the fact that it runs right onto his property as soon as it is wet. Mr. Wilska added that the tenant has told him that her water is also bad, and as a result uses bottled water. Dr. Perez said that 35 dump truckloads of manure were removed in the past month, although he does not know how deep the digging went. Mr. Wilska stated that he doesn't think that 35 truckloads were taken. Mr. Khosrova requested that Dr. Perez find out exactly what was taken. He agreed to do that. He said that he is trying to make amends and rectify the situation. The stream is close to the area, but it isn't a direct pathway to carry that much manure. Mr. Wilska reiterated that this paddock has been used for horses for 35 years and the manure has never been taken away. Chairman Everett reviewed the map that had been submitted by Mr. Wilska and asked to be shown where the pile is, etc. The front area has been reseeded and the grass is starting to grow. Mitchell Khosrova asked Mr. Wilska to comment on what has been done so far and what other expectations he might have. Mr. Wilska stated that he'd like to see the paddock property moved back from his property, more manure removed by plowing out the entire area. Dr. Perez said that there has never been grass on the slope, but the paddock would be moved back some. He feels it is hard packed ground and does not cause a problem. Mr. Wilska feels that the hill has to be plowed and healed, and grass needs to be put on the hill. Mr. Everett added that with no engineering proof, this Board can go no further. Dr. Perez said that the fences would be moved further back to be 100' from the Wilska property line, and he would honor a 35' buffer zone from the stream. Reseeding has been done. Mr. Wilska reiterated the need to reseed on the hill, and Dr. Perez agreed to do this.

The Board put this on hold until the next meeting. Mr. Wilska can see what the reseeded does, and he can get back to us a week before the next meeting to see if he wants to continue with his request. This can be handled two ways---through the portion of the code which deals with nuisance, but the Board, without testing the water above and below the property is not willing to decide what is to blame for the water situation, and through the setback issue, which, according to Dr. Perez is being addressed. Dr. Perez agrees that drinking water is the biggest issue, and being a good neighbor is also important. Mr. Wilska asked again as to whether the hill would be seeded to which Dr. Perez responded in the affirmative. Mr. Everett stated that the ZBA has no authority to tell Dr. Perez to grow grass. However, the Board does appreciate the fact that the two parties are trying to work this out.

The meeting was adjourned at 7:40PM.

---

David Everett, Chairman

Respectfully submitted,

**TOWN OF CHATHAM  
MAY 24, 2012**

**ZONING BOARD OF APPEALS  
FINAL COPY**

\*\*\*\*\*

**Members Present:**

Adrian Ooms  
Robert Leary  
Jeff Lick  
Mitchell Khosrova  
David Everett, Chairman  
JP Henkel  
Kary Jablonka

**Members Absent:**

None

**Public Present:**

Eric Wilska

The May 24, 2012 Zoning Board of Appeals meeting was called to order at 7:00PM by Chairman David Everett. The Pledge of Allegiance was recited. Mitchell Khosrova moved and Robert Leary seconded that the minutes from the previous meeting be accepted. This carried with Kary Jablonka abstaining. The clerk reminded the Board of the re-dedication of the Town Hall on Saturday, June 2.

**ERIC WILSKA- REQUEST FOR AN INTERPRETATION AS TO THE  
RESPONSIBILITY OF THE TOWN TO BECOME INVOLVED IN A COMPLAINT  
REGARDING CONTAMINATED WATER DUE TO A LARGE AMOUNT OF  
ANIMALS HOUSED IN A SMALL AREA    INFORMATIONAL**

As per the previous meeting, Mr. Wilska was advised to contact the ZBA if he had additional information to present towards this project. Mr. Wilska informed the Board that on the advice of his attorney he is withdrawing the application. However, he wanted to be certain that the statement made by Dr. Perez at the previous meeting regarding the reseeding of the pasture was in the minutes. He also wanted to express his opinion that the cost of the Town Engineer to do the tests the ZBA needed to move this project along was prohibitive. He feels that several options be presented to citizens as to who the Board would accept. He claimed that he sought another engineer's opinion and the estimate of cost was considerably lower. Mitchell Khosrova reminded the applicant that he could hire whomever he wished to conduct the tests, but that the ZBA would require that our town engineer review results. Mr. Wilska added that this matter between his neighbor, Dr. Perez and himself, would most likely be going to litigation. Mr. Wilska added that his water was tested again and it is still contaminated. He wondered what the process would be should he want to reapply to the ZBA. Chairman Everett explained that he would go to the Code Enforcement Officer if he has a complaint, and a judgment would be made. Mr. Wilska would then have a certain number of days to appeal that decision, which would mean coming to the ZBA. The photographs taken today at the site by CEO Walt Simonsmeier were reviewed by the Board. Setbacks now are being met.



Kary Jablonka moved and Mitchell Khosrova seconded that the meeting be adjourned. This carried. The meeting ended at 7:05PM.

---

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

TOWN OF CHATHAM  
JUNE 28, 2012

ZONING BOARD OF APPEALS  
FINAL COPY

\*\*\*\*\*

Members Present:

Adrian Ooms

Jeff Lick

Mitchell Khosrova

David Everett, Chairman

JP Henkel

Kary Jablonka

Tal Rappleyea, Atty.

Members Absent:

Robert Leary

Public Present:

Robert Jacobsen

Veronica Fuentes

Lauren Letellier

Steve Seabury

Lamberdna G. Ooms

Karen Jacobsen

Dalia Eliat

Kim L. Seabury

The June 28, 2012, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00PM. The Pledge of Allegiance was recited. Mitchell Khosrova moved and Jeff Lick seconded that the minutes from the previous meeting be adopted. This carried.

**ROBERT JACOBSEN—REQUEST FOR A VARIANCE WHICH WILL ALLOW FOR A ONE—STORY ADDITION ON HIS RESIDENCE ON SHAKER MUSEUM ROAD WHICH IS UNABLE TO MEET A SIDE SETBACK**

The applicant is seeking to put a one-story addition to his existing home. Since the home is non-conforming, he is unable to meet a side setback. He reviewed the plans, which include an outdoor basement entrance to save inside space, with the Board. Atty. Rappleyea reviewed the idea of a "balancing act" that the Board considers when granting/denying a variance. This speaks to the gain to the applicant vs. any detrimental effects to the neighborhood. ZEO Walt Simonsmeier suggested that there is a way to put on an addition without needing the variance, but it would have to be configured differently and be somewhat smaller. The applicant expressed that he felt this would not look good since the proportions would be off, nor would it meet his needs. It was also pointed out that the septic would have to be moved and this move will have to be shown on the site plan. Elevation is also needed. Chairman Everett requested that a site plan be drawn up that would show the alternative that Mr. Simonsmeier suggested.



Some of the neighbors wrote a letter to the ZBA citing some concerns they had regarding this variance. One of the points spoke to the home being in disrepair. Mr. Jacobsen responded that a new roof is needed and the dormers haven't been sided, but that this is going to be done. Another concern regarded a pile of items in the back. It was suggested that this be fenced in. Mr. Jacobsen has no objection to doing this. Mitchell Khosrova questioned what these items stored were, to which the applicant responded that they are items intended for use in his business and/or the anticipated expansion of his home. There was a question as to whether equipment is stored here. Currently not, however there may be a home occupation on this site in the future. Mr. Jacobsen was informed that another permit will be required for this. If site plan approval is required, this will have to go to the Planning Board. Mr. Jacobsen will meet with the Code Enforcement Officer to get information about this and will do what is necessary regarding permits. There may be a need to update the application to include a home occupation.

Other points in the letter were reviewed including the comment regarding no additional buildings being permitted as per the 2004 subdivision that was approved. This was not the case, rather no new building lots were to be formed with this subdivision.

Dalia Eilat, the neighbor on the affected side wanted to know if the applicant was considering both a carport and a garage. The applicant is planning a garage. The Board requested that everything be placed on the new site plan. Ms. Eilat also stated that all of the views in the aforementioned letter were shared by all who signed.

Mr. Everett invited anyone else who wished to be heard to speak. There will also be an opportunity next month at the Public Hearing to express opinions. He also stated that the Board is constrained by the variance standards, and the actual impact on the neighbors.

Loren Letellier stated that her concern is that in a small community diminishing the value of other properties needs to be addressed.

Atty. Rappleyea stated that the number of people who come to a Public Hearing and express their opinion, whether negative or positive has little impact on the decision to be rendered if the criteria for a variance are met. The factors that will be examined include whether the change will create an undesirable or detrimental change to the neighborhood, whether there will be an adverse environmental impact, whether there is an alternate way to achieve the results, whether the variance is substantial, and although this doesn't hold as much weight, whether the need is self-created.

The applicant was informed that there is a July 12<sup>th</sup> deadline to get information in to have this placed on the agenda for a Public Hearing in July. Also, letters to adjoining property holders within 500' have to be postmarked no later than 10 days before this meeting.

Kary Jablonka moved and Mitch Khosrova seconded that the meeting be adjourned. The meeting ended at 7:38PM.

---

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk



TOWN OF CHATHAM  
JULY 26, 2012

ZONING BOARD OF APPEALS  
FINAL MINUTES

\*\*\*\*\*

**Members Present:**

Adrian Ooms  
Jeff Lick  
Mitchell Khosrova  
David Everett, Chairman  
JP Henkel  
Kary Jablonka  
Bob Leary

**Members Absent:**

None

**Public Present:**

Karen Jacobsen     Robert Jacobsen  
Veronica Fuentes     Dalia Eilat  
Lauren Letellier     Bob Elmendorf  
Pamela Price     Steve Seabury  
Kim Seabury     James A. Buckley

The July 26, 2012, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:02PM. The Pledge of Allegiance was recited. Kary Jablonka moved and Jeff Lick seconded that the minutes from the previous meeting be adopted. This carried. Bob Leary abstained from this vote.

**ROBERT JACOBSEN-REQUEST FOR A VARIANCE WHICH WILL ALLOW FOR A ONE-STORY ADDITION ON HIS RESIDENCE ON SHAKER MUSEUM ROAD THAT IS UNABLE TO MEET A SIDE SETBACK     PUBLIC HEARING**

Mr. Jacobsen reviewed his request. He had submitted the additional elevation drawings showing the alternative to the Board as well as a letter from his architect which stated that the alternative does not meet the applicant's needs. A 9'4" variance is being sought. Clarification was provided regarding where the construction would be. Chairman Everett noted the vegetation on the side and the fence, and wondered which property this was on. The 6' stockade fence is on the neighbors' property. Mr. Jacobsen stated that with the fence and vegetation he can't see the neighbor's house. Mr. Everett asked about the potential Home Occupation. The clerk explained that CEO Walt Simonsmeier stated that from what the applicant described to him, this permit would be given through the Building Department. The garage that he is proposing would be utilized to store anything from this business. Mr. Everett questioned whether the items currently outside would go into the garage, to which the applicant responded affirmatively. Mitchell Khosrova questioned which zone this property falls into. It is in an H-2 zone. Chairman Everett announced that two letters had arrived---one from the VanEggen and one that was signed by about 12 neighbors. Bob Leary questioned

whether the present house is suitable to live in. The applicant responded that it is, but it is small. It would be fine for one person, but the applicant and his mother plan to reside here.

The Public Hearing was opened at 7:13PM.

Pamela Price, who owns adjoining property on Albany Tpk., is opposed to the project. She feels that this is similar to adding another house, and that it is too close to the neighbors. The proposed garage is a huge structure. Mr. Everett explained that the applicant is entitled to an accessory building, he has a permit to build this and it complies with zoning regulations.

Veronica Fuentes is the neighbor on the side where the setback is not able to be met. She wondered about the original request for a carport, and whether the garage is in place of this, and whether both could be placed on the property. Mr. Everett stated that if the applicant decides to put a carport on this property, he would need to get a permit and be compliant to zoning. Ms. Fuentes continued by saying that requesting this variance is to satisfy an aesthetic issue, that this addition can be done within the zoning laws. Mr. Everett stated that the applicant's architect cited possible ice and water problems, plus the fact that a bathroom would have to be moved to achieve this. Ms. Fuentes countered by stating that the drawings only depict the outside of the house, so how can we be sure that the bathroom would need to be moved.

Dalia Eilat spoke to the fact that this is a design issue, and the architect cites awkward rooflines. She feels the diagrams are not a real representation. The debate of aesthetics cannot be argued with the drawings that have been presented. She feels that the addition, being built within the setbacks, would be adequate. She also pointed out that she, as a licensed architect, wasn't convinced that the bathroom had to be removed under the proposed plan, and she added that even if it does, she does not feel it would be a significant additional cost. The Board reviewed the diagrams from the original submission with the new ones. Mrs. Jacobsen stated that there will be a blank 10' wall if they were to utilize the new plans, which not only doesn't look right, but wouldn't function as well. It was also brought up that this request is asking to double the total square footage.



Bob Elmendorf, who adjoins this property to the west, stated that there is not enough documentation for the Board to understand both options. Most of the houses in this area are old, and if this is modified it will not keep with the rest of the homes in this historical neighborhood. There will be a large structure looming on the south. He also worries about the possibility of a carport and a garage. He stated that when additional land was deeded to Mr. Jacobsen in 2004, his property doubled, but the intention was that there would be no additional building.

Lauren Letellier wondered what would happen to the trees on the property line in the plotting of a new driveway. Dave Everett stated that this is not within the ZBA's jurisdiction. Dalia Eilat reminded everyone that the setback is the issue, not the design. Mr. Everett stated that the ZBA would be considering the hardship on the applicant. If the design is changed, moving the bathroom might create additional hardship.

Kim Seabury asked whether the property values of the surrounding homes are considered. Mr. Everett said that the Board does not generally get into the economics. Ms. Seabury said that this is a residential neighborhood in an historic district, and any changes should reflect this so as to maintain the value of the neighborhood. Mitchell Khosrova pointed out that factor #1 in our determination is "undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties" and that any economic argument seems to be covered under this.

Ms. Fuentes wondered why the Board would consider the economics of moving a bathroom, but not the concerns of maintaining the neighborhood. Ms. Eilat added that renovations in any form are expensive.

Bob Elmendorf asked that the Board consider the past history of this applicant, who has started work on the present house and not completed it over the span of 10 years, and who has a large pile of junk in the back. Since no one else in the audience wished to be heard, the Public Hearing was closed at 7:42PM.

Mr. Everett asked the applicant what his plans were if this variance was not granted. Mr. Jacobsen said he did not know.

The Board considered the factors in granting a variance:

1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties- most of the neighbors foresee this as a detriment due to the past history of the applicant. Mrs. Jacobsen stated that the intention is to remodel the old part of the house and make it look good, too.
2. whether the benefit sought by the applicant can be achieved by some other method-it is possible to add an addition and remain within the setbacks. It is more of an aesthetic issue to utilize the plan needing the variance, and different architects would have different opinions on this. However, moving the bathroom may create a problem for the applicant. It also has been pointed out that the applicant has agreed to clean up the back and to construct a garage rather than a carport. There also is sufficient screening on the side where the variance would be needed.
3. whether the requested area variance is substantial-the Board feels that doubling the living space is substantial. The amount of the variance requested is about 35%.
4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood- no
5. whether the alleged difficulty was self-created- the Board feels that this is more so because there is an alternative that could be followed. It was pointed out by one of the Board members that if the neighbors were OK with this variance, there would not be a problem, but this is not the case.

Kary Jablonka moved that this request be denied because there is sufficient evidence that there will be a detrimental effect to the neighborhood because of the expansion being almost doubled. This does not fit into the character of this neighborhood. It is so close to the neighbor where setbacks can't be met that it compromises privacy. Also, the project can be done with no variance; although it was pointed out that it is a subjective decision as to what would be more attractive. Some felt, including the applicant's architect, that the variance is necessary for esthetic purposes, but the neighbors who must see this every day did not agree so the Board had conflicting thoughts on the esthetics.



It is almost a 40% expansion, which is substantial, and it is self-created because there is a viable alternative. This was seconded by Mitchell Khosrova. Chairman Everett announced that a SEQRA review is not needed. The motion carried with a vote of 4(Henkel,Jablkonka,Leary,Khosrova) to 3(Everett, Ooms, Lick).

Mitchell Khosrova moved, and Kary Jablonka seconded that the meeting be adjourned. This carried and the meeting ended at 8:04PM.

\_\_\_\_\_  
David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk

**TOWN OF CHATHAM  
SEPTEMBER 27, 2012**

**ZONING BOARD OF APPEALS  
FINAL MINUTES**

\*\*\*\*\*

**Members Present:**

Adrian Ooms  
Jeff Lick  
David Everett, Chairman  
JP Henkel  
Kary Jablonka  
Bob Leary  
Walt Simonsmeier, ZEO

**Members Absent:**

Mitchell Khosrova

**Public Present:**

Edward Rymanowski  
Wayne Drowne

The September 27<sup>th</sup>, 2012, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00PM. The Pledge of Allegiance was recited. Kary Jablonka moved and Jeff Lick seconded that the minutes from the previous meeting in July be adopted. This carried.

**EDWARD RYMANOWSKI- AREA VARIANCE REQUEST FOR PROPERTY  
LOCATED ON ALBANY TPK., WHICH WOULD ALLOW FOR A SUBDIVISION  
INFORMATIONAL**

Mr. Rymanowski told the ZBA that he had bought 6.2 acres of land in 2000 and he built a log cabin. The property had been grandfathered, since it did not meet zoning requirements. He decided that the cabin did not meet his needs, so he asked to build a second residence on the property. He got this permission. However, he is no longer able to afford the property, and would like to subdivide the property into a 2.2 lot and a 4 acre lot.

Chairman Everett asked ZEO Walt Simonsmeier about the history of this property. Mr. Simonsmeier stated that the second residence was started without a permit. The applicant was sent a Violation notice in August, 2004 regarding this, and subsequently had to appear in court in September of 2004 for constructing with no permit. The court ruled that plans and permits had to be in place. Finally, plans were submitted. Mr. Rymanowski was advised of the Zoning Code (180, Section 18. subsection C) which states: "No future subdivision of a lot on which two dwelling units have been located, pursuant to this provision, shall be created, unless all newly created lots will meet all setback, area, density and frontage requirements contained in this chapter. The existence of an inadequate setback between the two dwelling units or



insufficient area or density in frontage, shall not be a basis for the granting of a variance to permit a subdivision of the units." Mr. Simonsmeier also reported that the second residence does not have a Certificate of Occupancy as of now. This property lies in an RL-1 Zone, which requires 10 acres per parcel. Currently, the original residence is being rented.

Robert Leary wondered why the applicant built this if he was told not to. R. Rymanowski stated that he had the help of a contractor who was able to commence the work early, which is why there was no building permit. Chairman Everett remarked that this is a very big variance. Mr. Rymanowski told the Board that if this were to be divided, he could sell the log cabin. He said that he had dropped the price way down and nobody wants to purchase it. Mr. Simonsmeier was asked why there was no C/O, and he told the Board that the applicant had put in a spiral staircase, which does not meet code. When the applicant was questioned as to why this hasn't been remediated, he stated that he can't afford to change it out. The Board noted that almost all of the properties in the area meet the 10 acre minimum. Although there are separate septic systems for both residences, they share a well. The property also falls within two school districts. Chairman Everett stated that this request would create very small lots, which could be precedent-setting. The applicant was asked whether he has had any conversations with his neighbors about this. He has not. He did say that he has had several open houses to show the property, and at the last one no one showed up. The asking price is currently \$485,000. Mr. Everett asked whether the applicant has questioned the realtor as to why there's no interest. Perhaps one of the possibilities is that people do not want to purchase a property that has no C/O. Three of the 5 conditions in meeting a variance (substantiality of the request, impact on the neighborhood, and self-creation) are not being met. The consensus of the Board is not to grant this variance, however, if the applicant wishes to continue to pursue this, survey maps would have to be provided. The applicant has a right to return if something changes (i.e. the acquisition of more land.) The applicant decided to withdraw his application.

**WAYNE DROWNE- AREA VARIANCE REQUEST FOR FAMILY PROPERTY  
LOCATED ON DEPOT LANE WHICH WILL ALLOW HIM TO CONVEY LAND  
TO HIS NEIGHBOR (SUBDIVSION) INFORMATIONAL**

Mr. Drowne wishes to convey 900 square feet from his family's parcel to the neighbor to help with the setback from the neighbor's barn. This will bring no detriment to the existing property. It is an undersized lot, however, which causes the need for the variance. Because this parcel is up for sale, this is being requested now. Pictures were shown. A survey will be needed for the Public Hearing. If the setback isn't reached by this variance, the neighbor to whom the land will be conveyed will need an area variance to make up the difference. This would be handled at the same time. The Public Hearing was set for the next meeting, pending receipt of the survey maps.

Robert Leary moved, and JP Henkel seconded that the meeting be adjourned. The meeting ended at 7:55PM.

---

David Everett, Chairman

Respectfully submitted,

Marilyn Cohen, clerk



**TOWN OF CHATHAM  
OCTOBER 25, 2012**

**ZONING BOARD OF APPEALS  
FINAL COPY**

\*\*\*\*\*

**Members Present:**

Jeff Lick  
David Everett, Chairman  
JP Henkel  
Kary Jablonka  
Bob Leary  
Adrian Ooms  
Mitchell Khosrova

**Members Absent:**

None

**Public Present:**

R. Wayne Drowne  
David VandeSande

The October 25, 2012, Zoning Board of Appeals meeting was called to order by Chairman David Everett at 7:00PM. The Pledge of Allegiance was recited. Bob Leary moved and Kary seconded that the meeting minutes from September be approved. This carried. The November meeting will be held on Thursday, November 29, due to the Thanksgiving holiday.

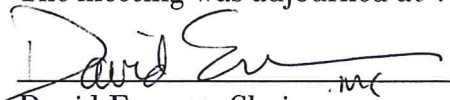
**R. WAYNE DROWNE-AREA VARIANCE REQUEST FOR FAMILY PROPERTY ON  
DEPOT LANE WHICH WILL ALLOW HIM TO CONVEY LAND TO HIS NEIGHBOR  
(SUBDIVISION). PUBLIC HEARING**

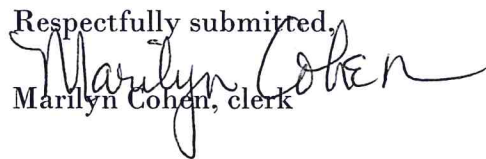
Survey maps were distributed and reviewed. There was some discussion regarding the fact that the setback for the neighbor's barn is 6 inches from meeting the 25' setback. The neighbor's property, which is an existing non-conforming property as far as this barn goes, is still non-conforming, but it is almost to compliance, which meets with this Board's approval. Postal receipts were turned in. The Public Hearing was opened at 7:02PM. There were no comments. The Public Hearing was closed at 7:02PM. Bob Leary moved that the area variance of 900 square feet be approved so that property can be conveyed to the neighbor. JP Henkel seconded the motion and it carried unanimously.

\*\*\*\*\*

David VandeSande approached the Board wondering about a potential area variance on this same property, but in a different location. An application will need to be submitted, and survey maps will be required in order for this to be heard.

The meeting was adjourned at 7:10PM.

  
David Everett, Chairman

Respectfully submitted,  
  
Marilyn Cohen, clerk